

SENATE CHAMBER,
AUSTIN, TEXAS, Monday, May 22, 1871.

Senate met pursuant to adjournment; President Campbell presiding.

Roll called; quorum present.

Absent—Senators Dohoney, Fountain, Saylor, Shannon and Tindick.

Absent—excused—Senators Evans and Pickett.

• Prayer by the Chaplain.

Senators Dohoney, Fountain and Saylor appeared and answered to their names.

Senator Rawson moved that the reading of the journal of Saturday be dispensed with. Lost.

Pending reading of journal of Saturday, a special message from the Governor by his private Secretary, Mr. Britton, was announced, as follows:

GOVERNOR'S OFFICE,
AUSTIN, May 20, 1871.

To the Honorable Senate and House of Representatives of the State of Texas:

GENTLEMEN: I have the honor to inform you that the following named bill has been received by me and approved, to-wit: Senate bill No. 423, "An act providing for the payment of persons summoned as witnesses before the Senate, sitting as a high court of impeachment in the case of William H. Russell, Judge of the Fifteenth Judicial District, and making an appropriation therefor. Approved May 16, 1871.

Very respectfully.

EDMUND J. DAVIS,
Governor.

Message read.

GOVERNOR'S OFFICE,
AUSTIN, May 20, 1871.

To the Honorable Senate and House of Representatives of the State of Texas:

GENTLEMEN: I have the honor to inform you that the following named bills have been received by me and approved, to-wit:

House bill No. 599, "An act to authorize the Governor to prepare and issue bonds to an amount sufficient to meet any deficiency in the receipts of revenue for the years 1871 and 1872, and also providing for the payment of said bonds and interest thereon," approved May 19, 1871.

House bill No. 578, "An act to define and establish the boundary line between the counties of Live Oak and Nueces," approved May 19, 1871.

House bill No. 39, "An act to prohibit the sale of intoxicating or spirituous liquors within two miles of Grapevine Masonic Institute, in the town of Grapevine, Tarrant county, Texas," approved May 19, 1871.

House bill No. 199, "An act to incorporate the Gymnastic Association of High Hill, Fayette county, Texas," approved May 19, 1871.

House bill No. 200, "An act further regulating proceedings in the several courts of the State of Texas," approved May 19, 1871.

House bill No. 235, "An act to prohibit the sale of intoxicating liquors within certain limits of Tennessee Colony High School, in the town of Tennessee Colony, in Anderson county," approved May 19, 1871.

House bill No. 406, "An act to incorporate the Austin City Railroad Company," approved May 19, 1871.

House bill No. 586, "An act to incorporate the San Antonio, and Victoria, Indianola and New Orleans Express and Transportation Company," approved May 19, 1871.

House bill No. 587, "An act to incorporate the San Antonio City Street Railroad Company," approved May 19, 1871.

House bill No. 619, "An act changing the venue of a certain suit hereinafter named," approved May 19, 1871.

Senate bill No. 354, "An act to legalize certain acts of the county court of Brazos county," approved May 19, 1871.

Senate bill No. 329, "An act incorporating the Texas and Europe Steamship Company," approved May 19, 1871.

Very respectfully,

EDMUND J. DAVIS,

Governor.

Message read.

Reading of journal of Saturday resumed.

Journal of Saturday read and approved.

On motion of Senator Hall, Ned Butler, Senate porter, was granted indefinite leave of absence from to-day.

REPORTS OF STANDING COMMITTEES.

Report of Committee on Claims and Accounts:

Report of Committee on Claims and Accounts on joint resolution for the relief of Moran Brothers :

COMMITTEE ROOM,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: A majority of your committee to whom was referred the petition of Moran Brothers, and joint resolution for their relief, having had the same under careful consideration, beg leave to report to your honorable body that it was in evidence before us (attested by authenticated copies from the records of the Board of Texas School Commissioners, bearing date June 17, 1861,) said board then consisting of Governor Edward Clark, Comptroller Clement Johns and Attorney General George Flournoy, and which record is now on file in the archives of the Comptroller's office—that said board was authorized by act of the Legislature of Texas of August 26, 1856—upon the proof required and furnished, to make the following order (entered in the record books of the board) as follows: "That the Eastern Texas Railroad Company is entitled to a loan of one hundred and fifty thousand dollars out of the school fund; and it is ordered that a warrant be issued for said amount and delivered to the company, or its authorized agent."

Your committee represent that this acknowledgement of the obligation of the State to the Eastern Texas Railroad Company, or its agent (which agent was Moran Brothers, for whom the relief is now asked,) was based upon the proof being made under the acts of August 26, 1856, and January 27, 1858, that said Eastern Texas Railroad Company had completed in a good and substantial manner a continuous section of twenty-five miles of railroad, from Sabine Pass to Beaumont, and were, by virtue of such construction, entitled under the act of August 13, 1856, to a loan out of the five per cent. indemnity bonds of the United States, belonging to the special school fund of Texas, to the amount of six thousand dollars for each mile of the twenty-five constructed, amounting to the sum of one hundred and fifty thousand dollars.

It was further in evidence before your committee that Moran Brothers were the authorized agents and attorneys of the East Texas Railroad Company, to receive the said United States bonds from the State, by virtue of a contract, between said company and said Moran Brothers—by which said Moran Brothers—trusting to the good faith of Texas, pledged in the act of August 13, 1856, furnished to said company the iron rails for the twenty-five mile section completed; which said iron was purchased in Wales, transported to Sabine city, and laid to Beaumont by Moran Brothers, upon the express conditions of receiving, as agents and attorneys of said company, and in full payment for said iron, the United States five per

cent. indemnity bonds of the Texas special school fund, due from Texas, (by the act of August 13, 1856,) to the said company, as a loan upon the twenty-five miles completed.

Under the contract to furnish the iron (which was furnished by Moran Brothers,) the company authorized them as their agents to deposit the bonds of the company to the amount of one hundred and fifty thousand dollars, said bonds to constitute a lien on said road and its appurtenances to secure the repayment of the loan by the State of the six thousand dollars to the mile due the company. And upon the reception by the School Board of said company's bonds for one hundred and fifty thousand dollars, the East Texas Railroad Company authorized Moran Brothers to receive in their own right, as agents, the United States five per cent. indemnity bonds from Texas to the amount of one hundred and fifty thousand dollars, which was to be received by said Moran Brothers in full payment for the iron furnished the company--the company assuming the obligation to reimburse the State, principal and interest, the amount of the loan for which the board ordered a warrant to issue to the company or its authorized agent.

It is further in evidence that the State, through the Board of School Commissioners, June 17, 1861, received the bonds of the company to the amount of one hundred and fifty thousand dollars and by formal order acknowledged the indebtedness of the State to the authorized agents of the company, to-wit: Moran Brothers of one hundred and fifty thousand dollars worth of the five per cent. indemnity bonds.

The School Board, after acknowledging that the company was entitled to the loan and ordering that a warrant for the amount issue to the company or its authorized agent, wholly refused to deliver the warrants to Moran Brothers, the authorized agents of the company and recognized as such by the board, for the reasons set forth in the records of the board, as follows:

"It appearing, however, that Isaac R. Carnell, a citizen of the State of New Jersey, agent of the firm Moran Brothers, of the State of New York, claims to receive such loan as may be due the company, by virtue of a contract between H. H. Edwards, President of the company, and said Moran Brothers, on file with the papers, it is further considered by the board, that the existence of war between this State and the State of New York forbids the delivery of a warrant for said loan into the hands of the agent of said Moran Brothers, until peace is restored between the two countries."

It further appeared to your committee that the said Moran Brothers have delayed thus long, after peace was restored, in pre-

senting their fully established and clearly acknowledged claim, awaiting the first session of the first Legislature, a duly recognized State Government after reconstruction.

The acknowledged claim due by the State to Moran Brothers June 17, 1860. was one hundred and fifty thousand dollars, for the payment of which to the State the East Texas Railroad Company became liable and assumed the responsibility.

The legal interest at this date was eight per centum, and the conventional interest authorized by statute was twelve per centum. The prayer for relief asks, and the joint resolution authorizes the payment of interest by the State on the amount acknowledged to be due by the State, but withheld until after a declaration of peace, at the rate of ten per centum, which your committee thinks is due, both in justice and equity, for the risks and losses sustained, solely by the default of the State.

Your committee are clearly of the opinion that even if Texas was, without remedy, against the road, on the bonds of the company, because of the partial destruction of the road by citizens of Texas, acting in the capacity of soldiers, yet the obligations of the State to protect the road—which was its security for the loan acknowledged to be due Moran Brothers, as the agents of the company—and the withholding of the payment of the United States five per cent. indemnity bonds, or the refusal to deliver them the warrant for such loan until peace was restored, make up an obligation due these petitioners, which it would dishonor the credit of Texas to fail to promptly acknowledge and provide for.

But Texas is *not* without remedy as against the road or company. The iron, or the greater portion, furnished by Moran Brothers on the faith of the State, guaranteed by act of August 13, 1856, is still on the track.

The company's bonds now in possession of the State, deposited as security for the State loan acknowledged to be due Moran Brothers, operates as a lien upon the road and the two hundred and fifty-six thousand acres of land belonging to the company by virtue of the grant of sixteen sections to the mile for the completed section of twenty-five miles.

The East Texas Railroad Company renewed their existence at this present session and design prosecuting the line to completion.

They have renewed possession of the iron furnished by Moran Brothers and their obligation under their bonds to repay the State both principal and interest of the loan acknowledged to be due Moran Brothers by the State for furnishing those very iron rails, is unimpaired.

But even, if the State were utterly remediless for reimbursement

she cannot, in accordance with a fundamental legal axiom as sound in ethics as in law, "take advantage of her own wrong."

The iron was furnished and laid by Moran Brothers on twenty-five miles of track, they agreeing to take as payment for their expenditure the six thousand dollars loan per mile pledged by the State to the company by virtue of act of August 13, 1856.

The State, through its authorized agents, or School Board, consisting of the Governor, Comptroller and Attorney General, acknowledged that a warrant for one hundred and fifty thousand dollars was then due Moran Brothers as the agents of the East Texas Railroad Company."

But, coupled with this formal and official acknowledgment of indebtedness, (a certified copy of which was furnished Moran Brothers,) the State declined to deliver the warrant until peace was restored. Your committee point to the fact that, although a state of war then existing was the pretext for the non-delivery of the one-hundred and fifty thousand dollars acknowledged to be due, yet the State authorities did not seek to repudiate the same, but postponed payment by order of the board "until peace was restored between the two countries."

Shall Texas now, at peace with the citizens of New York, be more unjust to the citizens of that State than the rebel State Government, then at war, which acknowledged the obligation but simply postponed delivery until the restoration of peace?

This is a real claim, specially provided for pre-existing law, and appropriations for the payment of same is not prohibited by our new Constitution.

It is just that character of claim acknowledged by pre-existing law, which the comity of States and the highest legal and moral obligations between the State of Texas and the citizens of another State, render not only morally and legally binding, but which every consideration of good faith, the honor and credit of the State, renders obligatory upon this Legislature to acknowledge, and by joint resolution provide for the payment of the same, pursuant to the pledges of the Legislature of 1856, and the School Board of 1861.

The majority of your committee therefore urge the adoption of the joint resolution for the relief of Moran Brothers.

Very respectfully,

HENRY RAWSON, Chairman.
WM. H. PYLE.

MESSAGE.

Under direction of the President, the Secretary carried to the

House for signature of Speaker the following enrolled Senate bills :
Senate bill No. 149, "An act to incorporate the Sabine and Neches Bridge Company."

Senate bill No. 232, "An act to incorporate the Dallas and Kaufman East Fork Bridge Company."

Senate bill No. 260, "An act to prohibit the sale of ardent spirits and other intoxicating liquors within certain limits of Lebanon High School, in Collin county, Texas."

Senate bill No. 262, "An act to establish a bridge across the San Gabriel river, at or near the Compton crossing, below the mouth of Brushy creek."

Senate bill No. 337, "An act to incorporate the Hearne and Little Brazos Bridge Company."

Senate bill No. 338, "An act to incorporate the Little Brazos and Robertson Bridge Company."

Senate bill No. 358, "An act to organize the county of Frio."

Senate bill No. 372, "An act to authorize certain persons therein named to erect a toll bridge across Harris Creek in Smith County."

Senate bill No. 393, "An act authorizing and requiring the county tax for the years 1870 and 1871, collected by other counties from persons, and upon property situated in San Jacinto County, to be paid to San Jacinto County."

Senate bill No. 418, "An act authorizing heads of departments of the State Government to administer oaths."

Senate bill No. 428, "An act to incorporate the 'C' Sugar and Tobacco Planting Association."

Senate bill No. 12, joint resolution proposing an amendment to section six of article ten of the Constitution of the State of Texas.

Senate bill No. 409, "An act to encourage the Gulf Western Texas and Pacific Railway Company in the building of their railways."

Senate bill No. 92, "An act to authorize the Commissioner of the General Land Office to purchase one hundred and thirty copies of Burlege & Hollingsworth's book of Valid Land Titles, to prevent the location of fraudulent land certificates."

Senate bill No. 293, "An act to incorporate the Marshall Female College."

Senate bill No. 377, "An act to incorporate the Banking, Insurance and Mutual Aid Association of Texas."

Senate bill No. 397, "An act supplemental to an act entitled 'an act to provide for the payment of the public debt of the State of Texas,' approved May 2, 1871."

Senate bill No. 399, "An act to incorporate Charles Sumner Male and Female Academy, in the town of Henderson, county of Rusk."

Enrolled Senate bills signed by the Speaker, returned and signed by the President of the Senate, in open session.

The Secretary also returned to the House, with the action of the Senate thereon, the following House bills:

House bill No. 52, "An act to prohibit the sale of intoxicating liquors within certain limits of Birdville, Tarrant county, Texas," passed May 20.

House bill No. 342, "An act to incorporate the Glover Male and Female Academy," passed May 20.

House bill No. 680, "An act to prohibit the sale of intoxicating and spirituous liquors in and within two miles of the town of Elysian Fields, in Harrison county."

Message from the House by Chief Clerk, returning the following bills, informing the Senate the House had passed the same.

Senate bill No. 30, "An act to incorporate the city of Rockport."

Senate bill No. 32, "An act to prohibit the sale or otherwise disposing of spirituous or intoxicating liquors within two miles of Douglassville College in Davis county Texas."

Senate bill No. 359, "An act to amend the first section of an act entitled 'an act for the incorporation of the city of Paris in the county of Lamar,' approved August 10, 1870."

Senate bill No. 416, "An act to amend the fifth section of an act passed the first day of October, A. D. 1866, entitled 'an act to incorporate the Rio Grand Railroad Company.'"

Senate bill No. 256, "An act to incorporate the board of fund commissioners of Trinity Conference Methodist Episcopal Church South."

Senate bill No 284, "An act to incorporate Columbus Lodge No. 51, I. O. O. F."

Senate bill No. 330, "An act to incorporate the Hebrew Benevolent Society of Brenham."

Senate bill No. 222, "An act making an appropriation for the mileage and per diem pay of the members, and the per diem pay of the officers and employes of the Twelfth Legislature of the State of Texas."

Also, transmitting for concurrence the following House bills:

House bill No. 650, "An act for the relief of the heirs of Isham Davis, deceased."

House bill No. 651, "An act for the relief of Theodore S. Lee."

House bill No. 655, "An act to incorporate the Society of the Sisters of Charity of Saint Vincent de Paul."

House bill No. 659, "An act to incorporate the town of Emory, in Rains county."

House bill No. 684, "An act to provide for the payment of the

late Special Judge of the Fifteenth Judicial District, and making an appropriation for the same."

House bill No. 685, "An act to incorporate the Galveston Hook and Ladder Company No. 1, of the city of Galveston, State of Texas."

Also, transmitting for signature the following enrolled House bills:

House bill No. 4, "An act to encourage stock raising, and for the protection of stock raisers."

House bill No. 679, "An act making an appropriation to pay the expenses of commissioners to locate and build the Agricultural and Mechanical College of Texas."

House bill No. 108, "An act to incorporate the Land Owners' Association of Texas."

House bill No. 301, "An act to incorporate Rockwell Institute, in the county of Kaufman."

House bill No. 12, "An act to incorporate the town of Kosse, in Limestone county."

House bill No. 678, "An act for the relief of John Dobbin, late sheriff of Bexar county."

House bill No. 479, "An act amendatory of an act to incorporate the Home Insurance Company of Houston, Texas."

House bill No. 331, "An act to incorporate the Excelsior Transfer and Transportation Company."

House bill No. 626, "An act to incorporate the Carthage Branch Railway Company."

House bill No. 507, "An act to incorporate the Llano Mining Company."

Enrolled bills, signed by the President in open session, and returned to the House.

On motion of Senator Dohoney, the rules were suspended to take from file House bill No. 650, "An act for the relief of the heirs of Isham Davis, deceased." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Dohoney, the rules were further suspended and House bill No. 650 read third time and passed by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Cole, Dohoney, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrand, Latimer, Parsons, Pridgen, Rawson, Saylor, Shannon, Tendick—20.

Nays—Broughton—1.

On motion of Senator Tendick, the rules were suspended to take from file Senate bill No. 308, "An act to organize the Bureau of Immigration."

Senator Ruby moved that the Senate concur in the following House amendment: Amend section seven, line four, by striking out after the word "than" the words "one agent for," and inserting in lieu thereof the words "two agents, one for the Northern and one for the Southern States of."

Yeas and nays called for, and the Senate concurred in the House amendment by the following vote:

Yeas—Mr. President, Baker, Bell, Ford, Fountain, Hall, Hertzberg, Hillebrand, Mills, Parsons, Pridgen, Rawson, Ruby, Saylor, Tendick—15.

Nays—Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Gaines, Latimer, Pettit, Pyle, Shannon—11.

Senator Bell moved that the Senate concur in the following amendment: Amend section two by striking out the words "three thousand and five hundred dollars" and inserting in lieu thereof the words "two thousand dollars."

Yeas and nays called for, and the Senate concurred in the amendment by the following vote:

Yeas—Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Fountain, Gaines, Hall, Latimer, Mills, Parsons, Pettit, Pridgen, Saylor, Shannon, Tendick—19.

Nays—Mr. President, Ford, Hertzberg, Hillebrand, Pyle, Rawson, Ruby—7.

Senator Bell moved that the Senate concur in the following House amendment: Add, as "Section 9. That this act take effect and be in force from and after its passage."

Yeas and nays called for and the Senate concurred in the amendment, by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Cole, Dohoney, Flanagan, Ford, Fountain, Hall, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby, Saylor, Shannon, Tendick—21.

Nays—Broughton, Douglass, Gaines, Latimer, Pyle—5.

11 o'CLOCK A. M.

The hour having arrived for the consideration of special order, House bill No. 338, "An act to confer additional authority upon the Waco and Northwestern Railroad Company."

On motion of Senator Ruby, the special order was postponed until the Committee on Engrossed Bills and Private Land Claims could submit their reports.

Senator Ruby submitted the following report of Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills having examined and compared Senate bill No. 429, "An act to provide for a special registration of voters preparatory to any election under the provisions of 'an act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvement,' approved April 12, 1871, and to declare who shall be considered qualified voters at any election held under the provisions of said act," find the same to be correctly engrossed.

G. T. RUBY,
P. W. HALL.

Report read and received.

Senator Ruby submitted the following report of Committee on Private Land Claims:

COMMITTEE ROOM,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 426, entitled "An act for the relief of the heirs of Charles Clark," the relief asked for being predicated upon "an act for the relief of the heirs of Charles Clark, approved January 11, 1832," having carefully considered the same, are of the opinion that, under the provisions of sections thirty-three and thirty-four, article twelve, of the Constitution, the granting of the relief requested would be unconstitutional, and therefore instruct me to report the same back and recommend that it do not pass.

Respectfully,

G. T. RUBY,
Chairman.

Report read and laid over under the rules.

Postponed special order, House bill No. 338.

On motion of Senator Gaines, the special order was further postponed to allow the introduction of a bill.

Senator Gaines introduced a bill (Senate bill No. 434) to be entitled "An act to amend an act entitled 'an act to incorporate the Navasota and Washington County Ferry Company,' passed April 26, 1871." Read first time, rules suspended, read second time, ordered engrossed and passed to a third reading.

On motion of Senator Gaines, the rules were further suspended and Senate bill No. 434 read third time and passed.

Consideration of postponed special order resumed, House bill No. 338, "An act to confer additional authority upon the Waco and Northwestern Railroad Company."

Senator Douglass offered the following amendment: Add to section eight the following: "nor shall the said company run its line of road within twenty-five miles of the Houston and Great Northern Railroad, except at the approach to the city of Houston." Adopted.

[Senator Flanagan called to the Chair.]

Senator Parsons offered the following amendment: Amend section two, line six, strike out all after word "personal," down to word "river," in line seventeen.

Yeas and nays called for on adoption of the amendment, and the amendment lost by the following vote:

Yeas—Baker, Broughton, Cole, Flanagan, Parsons, Pyle, Rawson, Saylor—8.

Nays—Mr. President, Bell, Bowers, Dohoney, Douglass, Ford, Fountain, Gaines, Hall, Hillebrand, Mills, Ruby, Shannon—13.

Senator Bell moved that the further consideration of House bill No. 338 be postponed until to-morrow at 11 o'clock A. M., and that one hundred copies be printed as amended. Carried.

On motion of Senator Pyle, the rules were suspended to take from file House bill No. 524, "An act to incorporate the Fredericksburg Social Turnverein." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Pyle, the rules were further suspended and House bill No. 524 read third time and passed.

Senator Rawson offered the following resolution:

WHEREAS, A number of Senators have obtained absence for an indefinite period from and after certain dates, now passed, and

Whereas, Said Senators have not till now availed themselves of said leave; and

Whereas, The Senate have agreed to the House joint resolution to adjourn on the thirty-first instant; therefore,

Resolved, That the leave of absence heretofore granted Senators be, from the foregoing reasons, hereby annulled and revoked.

The Chair ruled the resolution out of order.

Senator Bowers appealed from the decision of the Chair.

The question being, "Will the Senate sustain the decision of the Chair?" the Senate refused to sustain the decision of the Chair, by the following vote:

Yeas—Mr. President, Bell, Broughton, Cole, Dohoney, Pyle, Saylor, Tendick—8.

Nays—Baker, Bowers, Douglass, Ford, Fountain, Hall, Hillebrand, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby, Shannon—14.

Senator Saylor offered the following amendment: Such Senators as do not avail themselves of said leave by Tuesday, 23d instant, at 12 M.

Senator Dohoney moved a call of the Senate. Call sustained.

Absent—unexcused—none.

Call suspended.

The question being on the amendment offered by Senator Saylor, Senator Baker moved to lay the amendment on the table.

Yeas and nays called for and motion to lay on the table lost by the following vote:

Yeas—Baker, Bell, Cole, Ford, Fountain, Gaines, Hall, Mills, Parsons—9.

Nays—Mr. President, Bowers, Broughton, Dohoney, Douglass, Flanagan, Hertzberg, Hillebrand, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor, Shannon, Tendick—16.

The question then being on the adoption of the amendment, yeas and nays called for and amendment lost by the following vote:

Yeas—Broughton, Dohoney, Douglass, Flanagan, Hertzberg, Hillebrand, Pyle, Saylor, Tendick—9.

Nays—Mr. President, Baker, Bell, Bowers, Cole, Ford, Fountain, Gaines, Hall, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby, Shannon—16.

The question then being on the adoption of the resolution.

Senators Saylor and Tendick gave notice that they would at once avail themselves of the leave of absence granted to them by the Senate. Yeas and nays called for on adoption of the resolution, and resolution adopted by the following vote:

Yeas—Baker, Bell, Bowers, Douglass, Ford, Fountain, Gaines, Hall, Hillebrand, Mills, Parsons, Pettit, Pridgen, Rawson, Ruby—15.

Nays—Mr. President, Broughton, Cole, Dohoney, Flanagan, Hertzberg, Pyle, Saylor, Shannon—9.

On motion of Senator Pridgen, the rules were suspended to take from file House bill No. 671, "An act to provide for the creating of two counties out of the territory now embraced within the limits of Refugio county, and to provide for their organization. Read first time, rules suspended, read second time.

Senator Pridgen offered the following amendment: Amend by striking out in line twenty-one after the words "county of" the word "Rockport," and insert in lieu thereof the word "Aransas." Adopted.

Bill passed to a third reading as amended.

Senator Pridgen moved that the rules be further suspended to read the bill a third time. Yeas and nays called for and motion to suspend the rules lost by the following vote:

Yeas—Broughton, Flanagan, Ford, Gaines, Hall, Hertzberg, Hillebrand, Mills, Pettit, Pridgen, Pyle, Rawson, Ruby—13.

Nays—Baker, Bell, Bowers, Dohoney, Douglass, Shannon—6.

On motion of Senator Bell, the rules were suspended to take from file House bill No. 192, "An act to incorporate the Cedar Bayou Bar Company." Read second time and passed to a third reading.

On motion of Senator Bell, the rules were further suspended and House bill No. 192 read third time and passed.

On motion of Senator Hertzberg, the rules were suspended to take from file House bill No. 512, "An act to incorporate the Boerne Gesangverein, of the town of Boerne, Kendall county, Texas." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Pyle, the rules were further suspended and House bill No. 512 read third time and passed.

On motion of Senator Fountain, the rules were suspended to take from file House bill No. 682, "An act making an appropriation to defray the expenses of the Secretary of State, James P. Newcomb, while on business connected with the frontier defense, bonds and agricultural land scrip." Read first time.

President Campbell resumed the chair.

Senator Bowers moved to refer the bill to the Committee on Finance.

Yeas and nays called for and motion to refer lost by the following vote :

Yeas—Baker, Bowers, Dohoney, Gaines, Hall, Pyle, Shannon—7.

Nays—Mr. President, Broughton, Cole, Douglass, Flanagan, Ford, Fountain, Hertzberg, Hillebrand, Parsons, Pettit, Pridgen, Rawson, Ruby—14.

Senator Douglass moved to suspend the rules to read the bill a second time.

Yeas and nays called for, and rules suspended by the following vote :

Yeas—Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Hertzberg, Hillebrand, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby—18.

Nays—Bowers, Gaines, Shannon—3

Bill read second time.

Senator Gaines offered the following amendment: Amend by striking out "sixteen hundred, or so much thereof," and insert "one thousand, or so much thereof."

Senator Flanagan moved to lay the amendment on the table.

Yeas and nays called for and amendment laid on the table by the following vote:

Yeas—Mr. President, Baker, Bell, Broughton, Douglass, Flanagan, Ford, Fountain, Hertzberg, Hillebrand, Parsons, Pettit, Pridgen, Rawson, Ruby—15.

Nays—Bowers, Cole, Dohoney, Gaines, Shannon—5.

Bill passed to a third reading.

Senator Bowers moved a call of the Senate. Call sustained.

Absent—unexcused—Senator Hall.

Senator Hall appeared and answered to his name.

Call suspended.

Senator Flanagan moved that the rules be suspended and the bill read a third time.

Yeas and nays called for and rules suspended by the following vote:

Yeas—Mr. President, Baker, Bell, Broughton, Cole, Douglass, Flanagan, Ford, Fountain, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby—18.

Nays—Bowers, Dohoney, Gaines, Shannon—4.

Bill read third time.

Senator Fountain moved that House bill No. 682 do now pass, yeas any nays called for and carried by the following vote:

Yeas—Mr. President, Baker, Bell, Broughton, Cole, Dohoney, Flanagan, Ford, Fountain, Hall, Hertzberg, Hillebrand, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby—19.

Nays—Bowers, Douglass, Gaines, Shannon—4.

Senator Ruby moved to suspend the rules to take from file House joint resolution No. 31, "Authorizing the Governor of the State to invite the Hon. Horace Greeley to visit the capital of the State."

Senator Bowers moved to adjourn to 4 o'clock P. M. to-day. Carried.

So the Senate at 12:50 o'clock P. M., adjourned to 4 o'clock P. M.

AFTERNOON SESSION.

4 o'clock, P. M.

Senate met pursuant to adjournment; President Campbell presiding.

Roll called; no quorum present.

Absent—Senators Flanagan, Hertzberg, Mills, Parsons and Shannon.

Absent—excused—Senators Evans, Latimer, Saylor and Tendick.

Sergeant-at-Arms was despatched for the absentees, with instructions to bring them before the bar of the Senate to answer for their absence.

Senators Flanagan, Mills and Parsons appeared, answered to their names and offered their excuses for absence, which were accepted.

Quorum present.

Senator Ruby submitted the following report of the Committee on Engrossed Bills:

COMMITTEE ROOM,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills, having examined and compared Senate bill No. 434, "An act to amend an act entitled 'an act to incorporate the Navasota and Washington county Ferry Company,' passed April 26, 1871," find the same to be correctly engrossed.

G. T. RUBY,
E. L. DOHONEY,
P. W. HALL.

Report read and received, and Senate bill No. 434 carried to the House for concurrence.

On motion of Senator Baker, the rules were suspended to take from file House bill No. 670, "An act to release John Bartley from paying State, county or city incorporation tax on exhibition of gymnastic feats and entertainments in the State of Texas." Read first time, rules suspended, read second time and passed to a third reading.

Senator Baker moved that the rules be further suspended to read the bill a third time.

Yeas and nays called for and rules suspended by the following vote:

Yeas—Mr. President, Baker, Bowers, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrand, Latimer, Parsons, Pettit, Pridgen, Pyle, Ruby—19.

Nays—Bell, Rawson—2.

Bill read third time.

Senator Baker moved that the bill do now pass.

Yeas and nays called for and House bill No. 670 passed by the following vote:

Yeas—Mr. President, Baker, Bowers, Cole, Flanagan, Ford,

Fountain, Gaines, Hall, Latimer, Parsons, Pettit, Pridgen, Pyle, Ruby—15.

Nays—Bell, Douglass, Hillebrand, Rawson—4.

Special message from the Governor by his private secretary, Mr. Britton, as follows :

GOVERNOR'S OFFICE,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL.

President of the Senate :

SIR : I return to the Senate, where it originated, an act entitled "An act authorizing Jacob Carroll to construct a toll bridge across Peach creek, in Gonzales county."

This act is objected to by the representatives from that district because it is likely to prove oppressive. The creek proposed to be bridged is fordable the greater part of the time, and if a bridge is necessary it ought to be built by the county and maintained free, as the expense thereof must be light. It will be seen that the act grants the exclusive privilege for three miles above and below the main highway through the county of Gonzales.

Very respectfully,

EDMUND J. DAVIS,
Governor.

Message and bill read.

The question being, "Will the Senate, upon reconsideration, agree to pass the bill?" yeas and nays were called and the Senate, upon reconsideration, passed the bill by the following vote :

Yeas—Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hillebrand, Latimer, Mills, Parsons, Pridgen, Pyle—20.

Nays—Rawson.

Under direction of the President, the Secretary carried to the House Senate bill No. 406, together with the veto message of the Governor, informing the House that the Senate, upon reconsideration, had passed the bill notwithstanding the objections of his Excellency thereto.

GOVERNOR'S OFFICE,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL.

President of the Senate :

SIR : I return to the Senate, where it originated, "An act to incorporate the Navasota and Washington County Ferry Company." I return this for the reason that a supplemental act has been passed

and become a law, making this one unnecessary, and the Senator and Representatives from this district desire it returned.

Very respectfully,

EDMUND J. DAVIS,
Governor.

Message and bill read.

The question being, "Will the Senate, upon reconsideration, agree to pass the bill?" yeas and nays taken and the Senate, upon reconsideration, does not agree to pass the bill (Senate bill No. 407) by the following vote:

Yeas—Bell, Broughton—2.

Nays—Mr. President, Baker, Bowers, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Hillebrand, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby—20.

MESSAGES.

Message from the House by the Chief Clerk, transmitting for the concurrence of the Senate the following House bills:

House bill No. 634, "An act to incorporate the Galveston and Eastern Texas Railway Company."

House bill No. 371, "An act to incorporate the Navasota Hebrew Benevolent Society."

House bill No. 485, "An act to incorporate the Railroad Real Estate, Building and Savings Association of Texas; and

House bill No. 526, "An act to organize and incorporate the "Austin and Red River Railroad Company."

Also, informing the Senate that the House had passed the following Senate bill:

Senate bill No. 294, "An act supplementary to 'an act to incorporate the Rio Grande Railroad Company,' approved August 13, 1870."

Under direction of the President the Secretary informed the House that the Senate had passed without amendments the following House bills:

House bill No. 512, "An act to incorporate the Boerne Gesangverein, of the town of Boerne, Kendall county, Texas."

House bill No. 524, "An act to incorporate the Fredericksburg Social Turnverein."

House bill No. 192, "An act to incorporate the Cedar Bayou Bar Company."

House bill No. 682, "An act making an appropriation to defray the expenses of the Secretary of State, James P. Newcomb, while

on business connected with the frontier defence bonds and agricultural land scrip.

Also, transmitting, for concurrence, the following Senate bill:

Senate bill No. 429, "An act to provide for a special registration of voters preparatory to any election under the provisions of 'an act, to authorize counties, cities and towns, to aid in the constructions of railroads and other works of internal improvements, approved April 12, 1871,' to election who shall be considered qualified voters at any election held under the provisions of said act."

On motion of Senator Dohoney, the rules were suspended to take from file House bill No. 197, "An act to incorporate the Bank of Cleburne." Read second time and passed to a third reading.

On motion of Senator Dohoney, the rules were further suspended and House bill No. 197 read third time and passed.

On motion of Senator Douglass, the rules were suspended to take from file House bill No. 604, "An act to incorporate the Young Men's Real Estate and Building Association of the city of Tyler. Read second time.

On motion of Senator Douglass, the substitute reported by the Committee on State Affairs (Senate substitute House bill No. 604, "An act to incorporate the Young Men's Real Estate and Building Association of Tyler, Texas,") was adopted.

Senate substitute House bill No. 604 passed to a third reading.

On motion of Senator Douglass, the rules were further suspended and Senate substitute House bill No. 604 read third time and passed.

On motion of Senator Flanagan, the rules were suspended to take from file House bill No. 620. "An act to incorporate the Dallas City Railroad Company." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Flanagan, the rules were further suspended, and House bill No. 620 read third time and passed.

On motion of Senator Ford, the rules were suspended to take from file House joint resolution No. 31, "Joint resolution authorizing the Governor of the State to invite the Hon. Horace Greeley to visit the capital of the State." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Baker, the rules were further suspended and House joint resolution No. 31 read third time.

Yeas and nays called for on the final passage of the resolution, and House joint resolution No. 31 passed by the following vote:

Yeas—Mr. President, Baker, Bell, Bowers, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Gaines, Hall, Hertzberg, Hil-

lebrand, Latimer, Mills, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Saylor--23.

Nays--Broughton--1.

On motion of Senator Fountain, the rules were suspended to take from file House bill No. 551, "An act to make the county of La Salle a part of the Seventeenth Judicial District of this State, and to attach it to the county of Live Oak for judicial and other purposes." Read first time, rules suspended, read second time and passed to a third reading.

On motion of Senator Fountain, the rules were further suspended and House bill No. 551 read third time and passed.

On motion of Senator Gaines, the rules were suspended to take from file House bill No. 381, "An act to authorize the county courts of the several counties in this State to levy a road tax and to lease the roads on certain conditions." Read first time.

Senator Gaines moved to refer the bill to a select committee of three. Carried.

The President appointed as such committee Senators Gaines, Ford and Dohoney.

Senator Hall submitted the following report of the Select Committee on the veto message of the Governor on Senate bill No. 220, "An act to incorporate the Calvert and Belton Railroad Company."

COMMITTEE ROOM,
AUSTIN, May 17, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: A majority of your Select Committee, to whom was referred the message of his Excellency, the Governor, vetoing Senate bill No. 220, "An act entitled 'an act to incorporate the Calvert and Belton Railroad Company,'" have had the same under careful consideration, and are of the opinion that the objections made in such message are not sufficient to prevent the passage of said bill. We find that the bill provides that the company shall purchase the right of way, and hence does not come under the objection made to the Galveston and Denver City Air Line Railroad Company and other charters heretofore signed by his Excellency.

P. W. HALL,
J. P. DOUGLASS,
Majority of Committee.

Report, message and bill read.

On motion of Senator Hall, the rules were suspended to consider the report.

The question being, "Will the Senate, upon reconsideration, agree to pass the bill?" yeas and nays were taken and the Senate, upon

reconsideration, passed the bill by the following vote, two-thirds voting in the affirmative:

Yeas—Mr. President, Baker, Bell, Bowers, Broughton, Cole, Dohoney, Douglass, Flanagan, Ford, Fountain, Hall, Latimer, Parsons, Pyle, Saylor—16.

Nays—Gaines, Hertzberg, Hillebrand, Mills, Rawson, Ruby, Tendick—7.

On motion of Senator Hertzberg, the rules were suspended to take from file House bill No. 241, "An act to provide for the appointment of one county surveyor for two or more counties. Read second time.

On motion of Senator Ford, the following amendment reported by the Committee on State Affairs, was adopted: Amend by striking out section two.

Bill passed to a third reading as amended.

On motion of Senator Ford, the rules were further suspended and House bill No. 241 read third time and passed.

Senator Pridgen submitted the following reports of the Committee on Enrolled Bills:

COMMITTEE ROOM,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Enrolled Bills have examined and find correctly enrolled the following Senate bills, to-wit: No. 149, entitled "An act to incorporate the Sabine and Neches Bridge Company;" No. 210, entitled "An act to incorporate the San Gabriel Bridge Company;" No. 232, entitled "An act to incorporate the Dallas and Kaufman East Fork Bridge Company;" No. 260, entitled "An act to prohibit the sale of ardent spirits and other intoxicating liquors within certain limits of Lebanon High School, in Collin county, Texas;" No. 262, entitled "An act to establish a bridge across the San Gabriel river, at or near the Compton crossing, below the mouth of Brushy creek;" No. 337, entitled "An act to incorporate the Hearne and Little Brazos Bridge Company;" No. 338, entitled "An act to incorporate the Little Brazos and Robertson County Bridge Company;" No. 358, entitled "An act to organize the county of Frio;" No. 372, entitled "An act to authorize certain persons therein named to erect a toll bridge across Harris creek, in Smith county;" No. 393, entitled "An act authorizing and requiring the county tax for the years 1870 and 1871, collected by other counties from persons and property situated in San Jacinto county, to be paid to San Jacinto county;" No. 418, entitled "An act authorizing heads of departments of the State Government to admin-

ister oaths ;" No. 428, entitled "An act to incorporate the 'C' Sugar and Tobacco Planting Association ;" also, Senate joint resolution No. 12, "proposing an amendment to section six of article ten of the Constitution of the State of Texas ;" and to-day, at 11:30 o'clock A. M., presented them to the Governor for his approval.

B. J. PRIDGEN,
Chairman.

COMMITTEE ROOM,
AUSTIN, May 22, 1871.

Hon. DON CAMPBELL,

President of the Senate :

SIR : Your Committee on Enrolled Bills have examined and find correctly enrolled the following Senate bills, to wit: No. 92, entitled "An act to authorize the Commissioner of the General Land Office to purchase one hundred and thirty copies of Burlage & Hollingworth's book of valid land titles to prevent the location of fraudulent land certificates ;" No. 293, entitled "An act to incorporate the Marshall Female College ;" No. 397, entitled "An act supplemental to 'an act entitled an act to provide for the payment of the public debt of the State of Texas,' approved May 2, 1871 ;" No. 399, entitled "An act to incorporate Charles Sumner Male and Female Academy in the town of Henderson, in Rusk county ;" No. 409, entitled "An act to encourage the Gulf Western Texas and Pacific Railway Company in the construction of their railway ;" and to-day, at 12½ o'clock P. M., presented them to the Governor for his approval.

B. J. PRIDGEN,
Chairman.

Reports read and received.

On motion of Senator Hillebrand, the rules were suspended to take from file Senate Bill No. 422, "An act to prohibit the sale or distribution of spirituous, vinous, malt and other intoxicating liquors within certain limits." Read second time, and substitute reported by the Committee on Education, (substitute Senate bill No. 422) "An act to prohibit the sale of intoxicating or spirituous liquors within certain limits of the town of Winchester," was adopted, ordered engrossed and passed to a third reading.

On motion of Senator Hillebrand, the rules were further suspended and substitute Senate bill No. 422 read third time and passed.

On motion of Senator Latimer, the rules were suspended to take from file House bill No. 681, "An act authorizing the Board of Trustees of the State Blind Asylum to credit the payment of cer-

tain accounts, and making an appropriation for the same. Read first time, rules suspended and passed to a third reading.

On motion of Senator Flanagan, the rules were further suspended and House bill No. 681 read third time.

Yeas and nays called for on the final passage of House bill No. 681, with the following result:

Yeas—Baker, Bowers, Cole, Douglass, Flanagan, Fountain, Hall, Mills, Parsons, Pridgen, Pyle, Rawson, Ruby, Saylor—14.

Nays—Mr. President, Broughton, Dohoney, Gaines, Hertzberg, Hillebrand, Latimer, Pettit, Tendick—9.

The President withheld the decision of the Chair, as to whether the bill had been passed by the preceding vote until he should have taken the matter under advisement.

On motion of Senator Mills, the rules were suspended to take from file, House bill No. 683, "An act to incorporate the Navasota Hook and Ladder Company No. 1 of the city of Navasota, State of Texas." Read first time, rules suspended, read second time.

On motion of Senator Mills, rules were further suspended and House bill No. 683 read third time and passed.

Senator Dohoney moved that the Senate stand adjourned to 10 o'clock A. M. to-morrow.

Yeas and nays called for and motion lost by the following vote:

Yeas—Baker, Broughton, Dohoney, Gaines, Hertzberg, Pettit, Pyle, Rawson—8.

Nays—Mr. President, Bell, Bowers, Douglass, Flanagan, Fountain, Hillebrand, Mills, Parsons, Pridgen, Ruby, Tendick—12.

On motion of Senator Parsons, the rules were suspended to take from file House bill No. 634, "An act to incorporate the Galveston and Eastern Texas Railway Company." Read first time.

Senator Baker moved that the Senate stand adjourned to 10 A. M. to-morrow.

Yeas and nays called and motion lost by the following vote:

Yeas—Mr. President, Baker, Broughton, Cole, Dohoney, Latimer, Mills, Pettit—8.

Nays—Bell, Bowers, Douglass, Flanagan, Ford, Fountain, Gaines, Hillebrand, Parsons, Pridgen, Pyle, Rawson, Ruby, Tendick—14.

Senator Flanagan moved that House bill No. 634 pass to a second reading.

Yeas and nays called for, and bill passed to a second reading by the following vote:

Yeas—Mr. President, Bell, Bowers, Douglass, Flanagan, Ford, Fountain, Hall, Hillebrand, Parsons, Pettit, Pridgen, Pyle, Rawson, Ruby, Tendick—16.

Nays—Baker, Broughton, Cole, Dohoney, Latimer—5.

Senator Baker moved that the Senate adjourn to 10 A. M. to-morrow.

Yeas and nays called for, and motion carried by the following vote :

Yeas—Mr. President, Baker, Bowers, Broughton, Cole, Dohoney, Hall, Latimer, Mills, Pettit, Pyle—11.

Nays—Bell, Douglass, Flanagan, Ford, Fountain, Hillebrand, Parsons, Pridgen, Rawson, Ruby, Tendick—11.

So the Senate, at 6:10 P. M., adjourned to 10 A. M. to-morrow.
